PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION.

(LAW DEPARTMENT).

No LAW 93 LCA 62, dated Bangalore, 6th October 1962

Ordered that the Reserve Bank of India (Amendment) Bill, 1962 (81 of 1962), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 24th August 1962, be republished in the *Mysore Gazette*, for general information

By Order and in the name of the Governor of Mysore,

S. SRIPADARAJ,
Under Secy. to Govt., L. D

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LOK SABHA

The following Bills were introduced in Lok Sabha on the 24th August, 1962 —

BILL No. 81 OF 1962

A Bill further to amend the Reserve Bank of India Act, 1934 and to make certain consequential amendments in the State Bank of India Act, 1955

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows —

1. **Short title** —This Act may be called the Reserve Bank of India (Amendment) Act, 1962.

2. Amendment of section 8.—To sub-section (2) of section 8 of the Reserve Bank of India Act, 1934 (2 of 1934) (hereinafter referred to as the principal Act), the following proviso shall be added, namely :—

"Provided that the Central Board may, if in its opinion it is necessary in the public interest so to do, permit the Governor or a Deputy Governor to undertake, at the request of the Central Government or any State Government, such part time honorary work, whether related to the purposes of this Act or not, as is not likely to interfere with his duties as Governor or Deputy Governor, as the case may be.".

3. Amendment of section 17.—In section 17 of the principal Act,—

(*a*) in sub-clause (a) of clause (2), for the words "maturing within ninety days from the date of such purchase or re-discount, exclusive of days of grace," the following words shall be substituted, namely :—

"maturing,—

(i) in the case of bills of exchange and promissory notes arising out of any such transaction relating to the export of goods from India, within one hundred and eighty days, and

(ii) in any other case, within ninety days,

from the date of such purchase or re-discount, exclusive of days of grace,",

(*b*) in clause (3), for sub-clause (b) the following sub-clause shall be substituted, namely :—

"(*b*) the purchase, sale and re-discount of bills of exchange (including treasury bills) drawn in or on any place in any country outside India which is a member of the International Monetary Fund and maturing,—

(i) in the case of bills of exchange arising out of any *bona fide* transaction relating to the export

of goods from India, within one hundred and eighty days, and

(ii) in any other case, within ninety days,

from the date of such purchase or re-discount

Provided that no such purchase, sale or re-discount shall be made in India except with a scheduled bank or a State co-operative bank.",

(c) after clause (3), the following clause shall be inserted, namely —

"(3A) the making to any scheduled bank or State co-operative bank, of loans and advances, against promissory notes of such bank, repayable on demand or on the expiry of fixed periods not exceeding one hundred and eighty days :

Provided that the borrowing bank furnishes a declaration in writing, to the effect that—

(i) it holds bills of exchange arising out of any transaction relating to the export of goods from India, of a value not less than the amount of such loans or advances,—

(a) drawn in India and on any place in any country outside India which is a member of the International Monetary Fund or in any other country notified in this behalf by the Bank in the Gazette of India, and

(b) maturing not later than one hundred and eighty days from the date of the loan or advance; and

(ii) it will, so long as any part of such loans and advances remains unpaid, continue to hold such bills of exchange of a value not less than the amount of such loans or advances outstanding for the time being,",

(d) to clause (4), the following proviso shall be added, namely —

"Provided that loans and advances made against the security of bills of exchange and promissory notes

arising out of any transaction relating to the export of goods from India shall be repayable on demand or on the expiry of fixed periods not exceeding one hundred and eighty days ".

4. Amendment of section 42 —In section 42 of the principal Act,—

(*a*) in sub-section (1),—

(i) for the words 'five per cent of the demand liabilities and two per cent of the time liabilities", the words 'three per cent of the total of the demand and time liabilities" shall be substituted,

(ii) for the proviso, the following proviso shall be substituted, namely :—

"Provided that the Bank may, by notification in the Gazette of India, increase the said rate to such higher rate as may be specified in the notification so however that the rate shall not be more than fifteen per cent of the total of the demand and time liabilities ",

(iii) in the *Explanation*, in clause (*c*), for the words and brackets "Refinance Corporation for Industry (Private) Limited", the words "Refinance Corporation for Industry Limited" shall be substituted,

(*b*) in sub-section (1A),—

(i) for the words "rates specified in the notification, such additional balance being calculated with reference to the excess of the demand and time liabilities of the bank as shown in the return referred to in sub-section (2) over its demand and time liabilities", the words "rate specified in the notification, such additional balance being calculated with reference to the excess of the total of the demand and time liabilities of the bank as shown in the return referred to in sub-section (2) over the total of its demand and time liabilities" shall be substituted

(ii) the proviso shall be omitted,

(*c*) after sub-section (1A), the following sub-section shall be inserted, namely —

"(1AA) Notwithstanding anything contained in sub-section (1) or sub-section (1A), it shall not be necessary for any scheduled bank to maintain with the Bank any balance which shall be more than fifteen per cent of the total of its demand and time liabilities as shown in the return referred to in sub-section (2).",

(*d*) in sub-section (1B), the following proviso shall be inserted at the end, namely .—

"Provided further that where the Bank does not, under sub-section (5) demand the payment of the penalty imposed by sub-section (3), it may pay interest at such rate or rates as may be determined by the Bank from time to time on the amount actually maintained with it by the scheduled bank, notwithstanding that such amount is less than the balance required to be maintained in pursuance of a notification issued under the proviso to sub-section (1) or under sub-section (1A) ",

(e) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) (a) The penalties imposed by sub-sections (3) and (4) shall be payable within a period of fourteen days from the date on which a notice issued by the Bank demanding the payment of the same is served on the scheduled bank, and in the event of a failure of the scheduled bank to pay the same within such period, may be levied by the direction of the principal civil court having jurisdiction in the area where an office of the defaulting bank is situated, such direction to be made only upon an application made in this behalf to the court by the Bank,

(*b*) when the court makes a direction under clause

(*a*) it shall issue a certificate specifying the sum payable by the scheduled bank and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a suit,

(*c*) notwithstanding anything contained in this section, if the Bank is satisfied that the defaulting bank had sufficient cause for its failure to comply with the provisions of sub-section (1), (1A) or (2), it may not demand the payment of the penal interest or the penalty, as the case may be".

5. Amendment of Section 43A.—In Section 43A of the principal Act, after the words and figures "or section 43", wherever they occur, the words and figures and letter "or in pursuance of the provisions of Chapter IIIA" shall be inserted.

6. Insertion of new Chapter IIIA.—In the principal Act, after Chapter III, the following Chapter shall be inserted, namely:—

"CHAPTER IIIA.

COLLECTION AND FURNISHING OF CREDIT INFORMATION.

45A. Definitions.—In this Chapter, unless the context otherwise requires,—

(*a*) "banking company" means a banking company as defined in section 5 of the Banking Companies Act, 1949, and includes the State Bank of India or any other banking or financial institution notified by the Central Government in this behalf,

(*b*) "borrower" means any person to whom any credit limit has been sanctioned by any banking company, whether availed of or not, and includes—

(*i*) in the case of a company or corporation, its subsidiaries;

(*ii*) in the case of a Hindu undivided family, any member thereof or any firm in which such member is a partner,

(*iii*) in the case of a firm, any partner thereof or any other firm in which such partner is a partner, and

(*iv*) in the case of an individual, any firm in which such individual is a partner,

(*c*) "credit information" means any information relating to—

(*i*) the amounts and the nature of loans or advances and other credit facilities granted by a banking company to any borrower or class of borrowers;

(*ii*) the nature of security taken from any borrower for credit facilities granted to him, and

(*iii*) the guarantee furnished by a banking company for any of its customers.

45B. Power of Bank to collect credit information.—(1) The Bank may—

(*a*) collect, in such manner as it may think fit, credit information from banking companies; and

(*b*) furnish such information to any banking company in accordance with the provisions of section 45D

45C. Power to call for returns containing credit information.—(1) For the purpose of enabling the Bank to discharge its functions under this Chapter, it may at any time direct any banking company to submit to it such statements relating to such credit information and in such form and within such time as may be specified by the Bank from time to time.

(2) A banking company shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any instrument regulating the constitution thereof or in any agreement executed by it,

relating to the secrecy of its dealings with its constituents, be bound to comply with any direction issued under sub-section (1)

45D. Procedure for furnishing credit information to banking companies —(1) A banking company may, in connection with any financial arrangement entered into or proposed to be entered into by it, with any person, make an application to the Bank in such form as the Bank may specify requesting it to furnish the applicant with such credit information as may be specified in the application.

(2) On receipt of an application under sub-section (1), the Bank shall, as soon as may be, furnish the applicant with such credit information relating to the matters specified in the application, as may be in its possession

Provided that the information so furnished shall not disclose the names of the banking companies which have submitted such information to the Bank.

(3) The Bank may in respect of each application levy such fees, not exceeding twenty-five rupees, as it may deem fit for furnishing credit information.

45E. Disclosure of information prohibited —(1) Any credit information contained in any statement submitted by a banking company under section 45C or furnished by the Bank to any banking company under Section 45D, shall be treated as confidential and shall not, except for the purposes of this Chapter, be published or otherwise disclosed.

(2) Nothing in this section shall apply to—

(*a*) the disclosure by any banking company, with the previous permission of the Bank, of any information furnished to the Bank under section 45C,

(*b*) the publication by the Bank, if it considers necessary in the public interest so to do, of any information collected by it under section 45C, in such consolidated form as it may think fit

without disclosing the name of any banking company or its borrowers.

(3) Notwithstanding anything contained in any law for the time being in force, no court, tribunal or other authority shall compel the Bank or any banking company to produce or to give inspection of any statement submitted by that banking company under section 45C or to disclose any credit information furnished by the Bank to that banking company under section 45D

45F Certain claims for compensation barred.—No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions of this Chapter

45G. Penalties —(1) If any banking company—

(*a*) fails to submit any statement required under section 45C or submits under that section a statement which is false in any material particular, or

(*b*) fails to comply with any condition imposed under this Chapter,

every director or other officer of the company and every other person who is knowingly a party to the breach shall be punishable with fine which may extend to two thousand rupees

(2) If any person discloses any credit information, the disclosure of which is prohibited under section 45E, he shall be punishable with imprisonment which may extend six months or with fine which may extend to one thousand rupees or with both.".

7. Amendment of the State Bank of India Act, 1955.— In the State Bank of India Act, 1955 (23 of 1955),—

(*i*) in section 33, in clause (*xixb*), after the words "classes of industries", the words " or in such business or trade or classes of business or trade " shall be inserted,

(*ii*) in section 34, to sub-section (3), the following proviso shall be added, namely —

"Provided that nothing in sub-clause (*ii*) of clause (*b*) shall apply where the State Bank holds by way of a collateral security any negotiable instrument or security which does not mature within six months from the date aforesaid in respect of any loan, advance or cash credit sanctioned under this Act.".

STATEMENT OF OBJECTS AND REASONS

The Reserve Bank of India Act does not permit the Bank to make any loans or advances or to grant financial accommodation in any other form to commercial banks for periods in excess of ninety days It is also not possible for the Bank to make any such loans or to grant any such accommodation on the security of documents bearing only a single signature on behalf of any borrowing institution. As it has been represented that these restrictions render it difficult for banks to extend to exporters credit facilities for the periods for which or the conditions on which such credit may be required by them, it is proposed to amend the relevant provisions of the Act, so as to permit the Reserve Bank to grant loans and advances or other financial accommodation, so far as exports are concerned, on somewhat more liberal terms and for any period up to one hundred and eighty days.

The State Bank of India Act as it now stands does not enable the bank to grant term credits to exporters for periods in excess of six months. The Bill seeks to amend the relevant provisions of the Act so as to enable the bank to grant medium-term credits against exports for periods up to seven years.

It has been represented that in the absence of any regular and systematic arrangement for the collection, pooling and supply of particulars relating to the loans and

advances or other credit facilities granted by the various banks and financial institutions to those borrowing any amounts from them, individual banks or other financial institutions are handicapped in obtaining reliable information about the credit-worthiness or financial position of the various persons to whom credit has been or may have to be granted. The Bill seeks to enable the Reserve Bank to collect and supply the relevant information in a consolidated form to the lending institutions.

In view of the changes in recent years in the pattern of deposits of the scheduled banks, it is proposed that the balances which they are required to keep with the Reserve Bank should be prescribed at the uniform rate of three per cent of the total liabilities, the overall limit for such balances or any additional balances or special deposits as the case may be being fixed consequentially at fifteen per cent of the total liabilities.

The scope and object of the various amendments are further explained in the notes on the various clauses of the Bill.

NEW DELHI; MORARJI DESAI.

The 17th August 1962.

Notes on clauses

Clause 2.—sub-section (2) of Section 8 of the Reserve Bank of India Act as it now stands requires the Governor and the Deputy Governors of the Reserve Bank to devote their wholetime to the affairs of the bank. It is proposed to add a proviso to this sub-section, so as to permit the Governor or a Deputy Governor to undertake, at the request of the Central Government or of a State Government, any part time honorary work, even though it may not be strictly related to or connected with the affairs of the bank.

Clause 3 seeks to amend sub-clause (*a*) of clause (2) and sub-clause (*b*) of clause (3), of Section 17 of the Reserve Bank of India Act and to add a new clause, namely, clause (3A) and a proviso below the existing clause (4) in that Section so as to provide that .

(*a*) the period of maturity of eligible bills of exchange (including treasury bills) and promissory notes, whether drawn on or in India or drawn on or in any other country which is a member of the International Monetary Fund, may be increased from ninety days to one hundred and eighty days if the bills of exchange or the promissory notes as the case may be relate to the export of goods from India ,

(*b*) loans to scheduled banks or to state co-operative banks may be granted against the signature of the borrowing institutions themselves, instead of on the basis of two good signatures as now prescribed in the Act if the borrowing institutions furnish declarations to the effect that they are holding and will continue to hold so long as the advances granted to them by the Reserve Bank remain outstanding bills drawn by Indian exporters on foreign countries maturing within one hundred and eighty days , and

(*c*) normal banking accommodation to the scheduled banks or to the state co-operative banks may be granted for one hundred and eighty instead of ninety days if the accommodation is for the purpose of financing exports.

Clause 4.—Section 42 of the Reserve Bank of India Act now provides for the maintenance by scheduled banks with the Reserve Bank of India of balances to the extent of two per cent of their time liabilities and five per cent of their demand liabilities In view of the marked increase in time as distinguished from demand liabilities in the last few years, the actual balances required to be maintained with the Reserve Bank are now somewhat less than in the past and will diminish further if the present trend were to continue. The substantive portion of sub-section (1) of Section 42 is, therefore, proposed to be amended so as to require the banks to maintain a uniform percentage of three per cent of the total time and demand liabilities

The proviso to sub-section (1) of Section 42 permits the Reserve Bank to increase the minimum balances which are required to be maintained with it to eight per cent and twenty per cent in the case of time and demand liabilities respectively. An overall limit in terms of these percentages is also laid down for normal and increased balances under sub-section (1) a d special deposits under sub-section (1A) considered together. The ceilings mentioned in the proviso to sub-section (1) and the overall limit are proposed to be altered to fifteen per cent of the total liabilities.

The Reserve Bank does not pay any interest on the normal minimum balances, but is permitted to pay interest at a rate determined by it on the increased balances or special deposits, if there is no default on the part of any scheduled bank in maintaining such balances or deposits. It is proposed to add a new proviso to sub-section (1B) in Section 42 to empower the Reserve Bank to pay in its discretion interest on any balances or deposits which may be in excess of the normal minimum balance but less than the increased minimum balance or special deposit which is required to be maintained

A minor amendment to clause (*c*) of the Explanation below sub-section (1) seeks to delete the word "private" from the title of the Refinance Corporation for Industry which is now a public limited company and sub-section (5) as recast provides for the sums determined by a Court as penalties due from banks to be recovered as decreed amounts.

Clause 5 provides for the amendment of Section 43A of the Reserve Bank of India Act so as to extend the protection which is now afforded to the Reserve Bank and its officials to anything which is done in good faith, in the exercise of the bank's functions in regard to the collection and supply of credit information.

Clause 6 seeks to add a new Chapter to the Reserve Bank of India Act defining the duties and obligations of the bank in regard to the pooling consolidation and publication of credit information. Section 45A defines the expressions used in the Chapter. The words "banking company" as used in this Chapter will include in addition to commercial banks any financial institution which may be notified for this purpose. Every banking company will be required, notwithstanding the provisions of any other law or instrument to supply any information relating to any constituent which may be required by the Reserve Bank and will be entitled on an application accompanied by the payment of a fee not exceeding twenty-five rupees to consolidated information relating to all the loans granted by the banking companies to any person borrowing or intending to borrow from it. Suitable penalties are proposed to be prescribed for any failure on the part of banking companies to comply with any of the provisions of the Chapter, including those prohibiting the further publication by the banking companies of any information supplied to them and the Reserve Bank is also proposed to be indemnified against any action on the ground that the supply of credit information by it to the banking companies has been unauthorised or that the rights of any constituent have been violated.

Clause 7 seeks to amend clause (xixb) of Section 33 of the State Bank of India Act, 1955 so as to enable the State Bank to grant term loans for periods in excess of six months but not in excess of seven years to persons engaged in such business or trade or classes of business or trade as may be approved by the Central Board The intention is that loans for these periods should be granted, if necessary, to Indian exporters in order to enable them to offer competitive terms to the customers abroad. Sub-section (3) of Section 34 of the same Act so as to enable the State Bank to obtain and hold as collateral security any negotiable instrument relating to or arising out of exports from India and maturing after a period of six months.